

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 298

Short Title: Youth-Alcohol DL Revocation.

(Public)

Sponsors: Representatives Wright, Dickson, Easterling, Luebke; Adams, Boyd-McIntyre, Clary, Earle, Gardner, Hill, Shaw, and Thompson.

Referred to: Transportation, if favorable, Judiciary I.

February 23, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE ADMINISTRATIVE REVOCATION OF THE
2 DRIVERS LICENSE OF A PERSON AGED EIGHTEEN THROUGH TWENTY
3 FOR HAVING A BLOOD ALCOHOL LEVEL OF 0.02 OR GREATER AS
4 RECOMMENDED BY THE CHILD FATALITY TASK FORCE.
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 20-4.01 is amended by adding a new subdivision to read:

8 "(51) Youthful driver. – A driver who is 18, 19, or 20 years of age."

9 Sec. 2. G.S. 20-138.3 reads as rewritten:

10 "**§ 20-138.3. Driving by provisional licensee and youthful driver after consuming**
11 **alcohol or drugs.**

12 (a) Provisional Licensee Offense. – It is unlawful for a provisional licensee to
13 drive a motor vehicle on a highway or public vehicular area while consuming alcohol or
14 at any time while he has remaining in his body any alcohol or in his blood a controlled
15 substance previously consumed, but a provisional licensee does not violate this section if
16 he drives with a controlled substance in his blood which was lawfully obtained and taken
17 in therapeutically appropriate amounts.

18 (a1) Youthful Driver Offense. – It is unlawful for a youthful driver to drive a motor
19 vehicle on a highway or public vehicular area with any controlled substance in his blood

1 or with a blood alcohol level of 0.02 or greater at any relevant time after the driving.
2 Provided, however, a youthful driver does not violate this section if he drives with a
3 controlled substance in his blood which was lawfully obtained and taken in
4 therapeutically appropriate amounts.

5 (b) Subject to Implied-Consent Law. – An offense under this section is an alcohol-
6 related offense subject to the implied-consent provisions of G.S. 20-16.2.

7 (c) Punishment; Effect When Impaired Driving Offense Also Charged. – The
8 offense in this section is a Class 2 misdemeanor. It is not, in any circumstances, a lesser
9 included offense of impaired driving under G.S. 20-138.1, but if a person is convicted
10 under this section and of an offense involving impaired driving arising out of the same
11 transaction, the aggregate punishment imposed by the court may not exceed the
12 maximum applicable to the offense involving impaired driving, and any minimum
13 punishment applicable ~~must~~ shall be imposed."

14 Sec. 3. G.S. 20-16.2(a) reads as rewritten:

15 "(a) Basis for Charging Officer to Require Chemical Analysis; Notification of
16 Rights. – Any person who drives a vehicle on a highway or public vehicular area thereby
17 gives consent to a chemical analysis if charged with an implied-consent offense. The
18 charging officer ~~must~~ shall designate the type of chemical analysis to be administered,
19 and it may be administered when the officer has reasonable grounds to believe that the
20 person charged has committed the implied-consent offense.

21 Except as provided in this subsection or subsection (b), before any type of chemical
22 analysis is administered the person charged ~~must~~ shall be taken before a chemical analyst
23 authorized to administer a test of a person's breath, who ~~must~~ shall inform the person
24 orally and also give the person a notice in writing that:

- 25 (1) He has a right to refuse to be tested.
26 (2) Refusal to take any required test or tests will result in an immediate
27 revocation of his driving privilege for at least 10 days and an additional
28 12-month revocation by the Division of Motor Vehicles.
29 (3) The test results, or the fact of his refusal, will be admissible in evidence
30 at trial on the offense charged.
31 (4) His driving privilege will be revoked immediately for at least 10 days if:
32 a. The test reveals an alcohol concentration of 0.08 or more; ~~or~~
33 b. He was driving a commercial motor vehicle and the test reveals
34 an alcohol concentration of 0.04 or ~~more~~ more; ~~or~~
35 c. He was a youthful driver as defined in G.S. 20-4.01, and the test
36 reveals an alcohol concentration of 0.02 or more.
37 (5) He may have a qualified person of his own choosing administer a
38 chemical test or tests in addition to any test administered at the direction
39 of the charging officer.
40 (6) He has the right to call an attorney and select a witness to view for him
41 the testing procedures, but the testing may not be delayed for these
42 purposes longer than 30 minutes from the time he is notified of his
43 rights.

1 If the charging officer or an arresting officer is authorized to administer a chemical
2 analysis of a person's breath and the charging officer designates a chemical analysis of
3 the blood of the person charged, the charging officer or the arresting officer may give the
4 person charged the oral and written notice of rights required by this subsection."

5 Sec. 4. G.S. 20-16.2(i) reads as rewritten:

6 "(i) Right to Chemical Analysis before Arrest or Charge. – A person stopped or
7 questioned by a law-enforcement officer who is investigating whether the person may
8 have committed an implied-consent offense may request the administration of a chemical
9 analysis before any arrest or other charge is made for the offense. Upon this request, the
10 officer ~~must~~shall afford the person the opportunity to have a chemical analysis of his
11 breath, if available, in accordance with the procedures required by G.S. 20-139.1(b). The
12 request constitutes the person's consent to be transported by the law-enforcement officer
13 to the place where the chemical analysis is to be administered. Before the chemical
14 analysis is made, the person ~~must~~shall confirm his request in writing and he ~~must~~shall be
15 notified:

16 (1) That the test results will be admissible in evidence and may be used
17 against him in any implied-consent offense that may arise;

18 (2) That his license will be revoked for at least 10 days if:

- 19 a. The test reveals an alcohol concentration of 0.08 or more; ~~or~~
20 b. He was driving a commercial motor vehicle and the test results
21 reveal an alcohol concentration of 0.04 or ~~more~~more; ~~or~~
22 c. He was a youthful driver as defined in G.S. 20-4.01, and the test
23 reveals an alcohol concentration of 0.02 or more.

24 (3) That if he fails to comply fully with the test procedures, the officer may
25 charge him with any offense for which the officer has probable cause,
26 and if he is charged with an implied-consent offense, his refusal to
27 submit to the testing required as a result of that charge would result in
28 revocation of his ~~driver's~~drivers license. The results of the chemical
29 analysis are admissible in evidence in any proceeding in which they are
30 relevant."

31 Sec. 5. The catch line of G.S. 20-13.2 reads as rewritten:

32 "**§ 20-13.2. Grounds for revoking provisional license and license of youthful drivers**
33 **license.**"

34 Sec. 6. G.S. 20-13.2(a) reads as rewritten:

35 "(a) The Division ~~must~~shall revoke the license of a ~~person~~provisional licensee or a
36 youthful driver convicted of violating the provisions of G.S. 20-138.3 upon receipt of a
37 record of the licensee's conviction."

38 Sec. 7. G.S. 20-13.2(e) reads as rewritten:

39 "(e) Before the Division restores a ~~driver's~~provisional licensee's or a youthful
40 drivers license that has been suspended or revoked under any provision of this Article,
41 other than G.S. 20-24.1, the person seeking to have his ~~driver's~~drivers license restored
42 shall submit to the Division proof that he has notified his insurance agent or company of

1 his seeking the restoration and that he is financially responsible. Proof of financial
2 responsibility shall be in one of the following ~~forms;~~ forms:

3 (1) A written certificate or electronically-transmitted facsimile thereof from
4 any insurance carrier duly authorized to do business in this State
5 certifying that there is in effect a nonfleet private passenger motor
6 vehicle liability policy for the benefit of the person required to furnish
7 proof of financial responsibility. The certificate or facsimile shall state
8 the effective date and expiration date of the nonfleet private passenger
9 motor vehicle liability policy and shall state the date that the certificate
10 or facsimile is issued. The certificate or facsimile shall remain effective
11 proof of financial responsibility for a period of 30 consecutive days
12 following the date the certificate or facsimile is issued but shall not in
13 and of itself constitute a binder or policy of insurance or

14 (2) A binder for or policy of nonfleet private passenger motor vehicle
15 liability insurance under which the applicant is insured, provided that
16 the binder or policy states the effective date and expiration date of the
17 nonfleet private passenger motor vehicle liability policy.

18 The preceding provisions of this subsection do not apply to applicants who do not
19 own currently registered motor vehicles and who do not operate nonfleet private
20 passenger motor vehicles that are owned by other persons and that are not insured under
21 commercial motor vehicle liability insurance policies. In ~~such~~ these cases, the applicant
22 shall sign a written certificate to that effect. ~~Such~~ The certificate shall be furnished by the
23 Division and may be incorporated into the restoration application form. Any material
24 misrepresentation made by ~~such~~ a person on ~~such~~ the certificate shall be grounds for
25 suspension of that person's license for a period of 90 days.

26 For the purposes of this subsection, the term 'nonfleet private passenger motor vehicle'
27 has the definition ascribed to it in Article 40 of General Statute Chapter 58.

28 The Commissioner may require that certificates required by this subsection be on a
29 form approved by the Commissioner. The financial responsibility required by this
30 subsection shall be kept in effect for not less than three years after the date that the
31 license is restored. Failure to maintain financial responsibility as required by this
32 subsection shall be grounds for suspending the restored ~~driver's~~ drivers license for a
33 period of thirty (30) days. Nothing in this subsection precludes any person from showing
34 proof of financial responsibility in any other manner authorized by Articles 9A and 13 of
35 this Chapter."

36 Sec. 8. This act becomes effective December 1, 1995.